

SECOND REGULAR SESSION

SENATE BILL NO. 864

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR DOUGHERTY.

Pre-filed December 1, 2003, and ordered printed.

TERRY L. SPIELER, Secretary.

2914S.02I

AN ACT

To amend chapters 135 and 143, RSMo, by adding thereto two new sections relating to lead abatement.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapters 135 and 143, RSMo, are amended by adding thereto two new sections, to be known as sections 135.113 and 143.603, to read as follows:

135.113. 1. This section shall be known and may be cited as the "Lead Abatement Tax Credit Program".

2. As used in this section, the following terms mean:

- (1) "Department", the department of economic development;**
- (2) "Director", the director of the department of economic development;**
- (3) "Disability", a physical impairment which substantially limits one or more of a person's major life activities;**
- (4) "Tax liability", the tax due pursuant to chapter 143, RSMo, other than taxes withheld pursuant to sections 143.191 to 143.265, RSMo; and**
- (5) "Taxpayer", any individual, corporation, partnership, or limited liability entity.**

3. Any taxpayer who incurs costs for the purpose of abating any lead contamination on existing property owned by such taxpayer which is used or is intended for use as a dwelling for individuals shall receive a tax credit against such taxpayer's Missouri income tax liability in an amount equal to the lesser of fifty percent of such costs or five thousand dollars per dwelling. Tax credits issued pursuant to this subsection shall not be refundable; the credits shall be transferrable or negotiable. A credit allowed by this section may be claimed in the same taxable year as the credit is issued or carried forward for up to five subsequent taxable years.

4. In no event shall the aggregate amount of all tax credits issued pursuant

to this section exceed two million dollars in any fiscal year. The tax credits issued pursuant to this section will be on a first-come, first-served filing basis. A person seeking to receive the credits authorized in this section shall apply to the department on forms proscribed by the director.

5. The director shall determine the eligible costs for which the credit may be claimed in accordance with this section. Eligible costs shall be limited to reasonable costs of abating the lead present in the dwelling and returning the dwelling to a level of repair substantially similar to its condition prior to abatement. If a dwelling is improved beyond the original condition, as limited herein, the eligible costs shall only include the abatement costs and shall not include any improvement costs.

6. The tax credits allowed pursuant to this section shall not be redeemable to the extent a taxpayer has already deducted such abatement costs from such taxpayer's federal adjusted gross income or applied any other state or federal income tax credit to such costs.

7. The director of the department of economic development, in consultation with the director of the department of health and senior services and the director of revenue, may promulgate such rules or regulations as are necessary to administer the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

8. The provisions of this section shall apply to all tax years ending on or after December 31, 2005.

143.603. 1. In each taxable year beginning on or after January 1, 2004, each individual or corporation entitled to a tax refund in an amount sufficient to make a designation under this section may designate that one dollar or any amount in excess of one dollar on a single return, and two dollars or any amount in excess of two dollars on a combined return, of the refund due be credited to the childhood lead testing fund created in section 701.345, RSMo. The contribution designation authorized by this section shall be clearly and unambiguously printed on the first page of each income tax return form provided by this state. If any individual or corporation that is not entitled to a tax refund in an amount sufficient to make a

designation under this section wishes to make a contribution to the childhood lead testing fund, such individual or corporation may, by separate check, draft, or other negotiable instrument, send in with the payment of taxes, or may send in separately, that amount, clearly designated for the childhood lead testing fund, the individual or corporation wishes to contribute. The department of revenue shall forward such amount to the state treasurer for deposit to the childhood lead testing fund as provided in subsection 2 of this section.

2. The director of revenue shall transfer at least monthly all contributions designated by individuals under this section to the state treasurer for deposit to the childhood lead testing fund.

3. The director of revenue shall transfer at least monthly all contributions designated by the corporations under this section, less an amount sufficient to cover the cost of collection and handling by the department of revenue, to the state treasurer for deposit to the childhood lead testing fund.

4. A contribution designated under this section shall only be transferred and deposited in the childhood lead testing fund after all other claims against the refund from which such contribution is to be made have been satisfied.

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